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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,163	04/25/2002	Albert Modl	MODL3002/JEK	4360
23364	7590	12/29/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			ST CYR, DANIEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/030,163	MODL ET AL	
	Examiner	Art Unit	
	Daniel St.Cyr	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8 and 10-18 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/04, 10/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant amendment filed 10/24/05 in which claims 1, 8-10, 12, 13, were amended and claims 19 and 20 were added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 8, and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen et al, US Patent No. 5,719,950 in view of Hoffberg et al, US Patent No. 6,081,750.

Olsen et al disclose a biometric personal authentication system comprising: a fingerprint image sensor 10 inputting data for analysis to computer logic and memory functions 4 for unique, inherently specific identification, and non-specific biometric sensors 24, 26, and 28 with signal process functions 30 inputting information for analysis to computer system 6 to recognize electrocardiogram (EKG), pulse, and blood oxygen saturation for nonspecific biometric validation and skin temperature for further optional validation; a fingerprint recognition camera 10; a detector window 42, the detected image is captured and analyzed by image processor 12, developed into a vector array of fingerprint minutiae which is validated by comparator 14 through correlation of the scanned image vector array with the array selected from pre-stored memory file 16. (see figures 1, 7, and col. 6+).

Olsen discloses detecting properties that influences the sensory detection of the biometric data, but fails to specifically teach that these properties are stored in a second (separate) memory storage to be taking into account during authentication.

Hoffberg et al disclose an ergonomic Man-machine interface incorporating adaptive pattern recognition based control comprising: providing identification for multiple users using smart cards having users preference including biometric information stored therein and also disclose storing dynamic influences (blood pressure, skin temperature, EEG, EMG, etc) of the user preference in a separate storage space (see col. 34, lines 18-33 and col. 49, lines 56-65).

In view of Hoffberg et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system Olsen to provide additional storage space for storing the dynamic influence of the user biometric data. Such modification would make the system more reliable by providing means to account for environmental conditions so as to obtain more accurate results. For instance, if the reference data was captured at skin temperature of 100 degrees, during authentication if the skin temperature is not within that range, the system could adapt to account for the temperature difference (i.e. adjusting the calibration parameters, setting up different threshold values, etc). Therefore, it would have been an obvious extension as taught by Olsen. Olsen as modified by Hoffberg would be capable of performing all the method steps of the claims.

Allowable Subject Matter

4. Claims 6, 7, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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5. The following is a statement of reasons for the indication of allowable subject matter: although the prior art of record teaches a system for establishing biometric data reference and environment data influencing the detection of the biometric data, wherein these data are used for providing user authentication, the prior art of record fails to disclose or fairly suggests that the users are granted limited based on the environment data or depending on the degree of the match of redetected the biometric data and the reference biometric data. These limitations in conjunction with other limitations in the claims were not shown by, would not have been obvious, nor would be fairly suggested by the prior art of record.

Response to Arguments

6. Applicant's arguments filed 10/24/05 have been fully considered but they are not persuasive. (see remarks).

REMARKS:

In response to the applicant's first argument that Olsen fails to disclose detecting properties that influence the sensory detection of biometric data, the examiner respectfully disagrees. Olsen et al teach recognizing electrocardiogram (EKG), pulse, and blood oxygen saturation for nonspecific biometric validation and skin temperature for further optional validation, these properties of the users inherently influence the users' biometric data detection. Furthermore, the applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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In response to the applicant's second argument that Hoffberg et al does not rely on the factors (i.e. skin temperature, heart pulse, etc) during verification of a user. First, it has to be understood that these factors whether explicitly or implicitly influence the detecting of biometric data. The same factors are used to establish a dynamic **user profile**. (please read col. 34, lines 18-33). These factors are resulted from certain desires or mood. For instance, an angry person heart rate, blood oxygen saturation, would read differently from when the same person is calm. Although these factors may be used to infer the users' mood, they also "influence on the user preference" (col. 34, line 28). They are stored separate from the static factors. These data dynamic and static form the reference for subsequent verification.

Hoffberg et al disclose using smart card to identify the relevant users and to include **user profile** for use with fingerprint identification (see col. 49, lines 56-61).

The applicant's arguments are not persuasive. Refer to the rejection above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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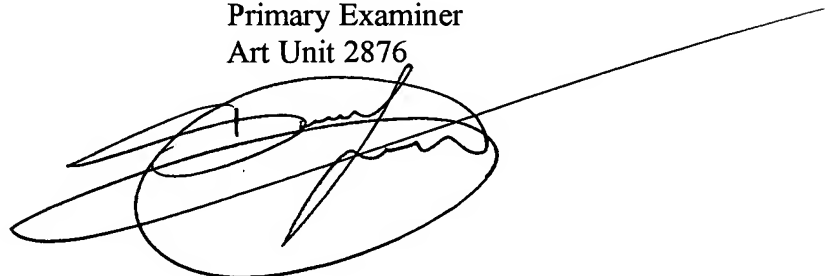
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr
Primary Examiner
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a large, loopy oval shape. A long, thin horizontal line extends from the right side of the signature across the page.

DS
December 22, 2005